

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Maine Department of Environmental Protection

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CHAPTER NUMBER AND RULE TITLE: Chapter 378 Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay or Silt and the Performance Standards for the Storage of Petroleum Products

STATUTORY AUTHORITY: P.L. 2011, Chapter 26, Resolve To Establish a Single Construction Permit for Certain Above Ground Oil Storage Tanks in Gravel Pits and Quarries. and 38 M.R.S.A. § 341-D, 38 M.R.S.A. §490-E and §490-CC

PUBLIC HEARING: November 3, 2011 at 09:30 a.m.
Florian Hall (Department of Public Safety Building)
45 Commerce Drive, Augusta, Maine 04330

COMMENT DEADLINE: 5:00 p.m. November 14, 2011

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE:

As required by PL 2011 Chapter 26, the Department of Environmental Protection is directed to amend its rules *Chapter 378 Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay or Silt and the Performance Standards for the Storage of Petroleum Products*, 06-096 CMR 378 to allow licensed mining operation to store of a small amount of diesel fuel on significant sand and gravel aquifers mapped by Maine Geological Survey. In addition, the proposed rule ensures consistency between department programs.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

The amendment would allow for up to 2 above ground diesel fuel tanks, in a single location on a parcel of property with an aggregate capacity not to exceed 1,100 gallons without the currently required variance required under department rules.

FISCAL IMPACT OF THE RULE:

Small operators may be impacted by this rule. The cost associated with the additional requirements for AST's on significant sand and gravel aquifers (certified tank installer, annual integrity testing, and environmental assessment after tank abandonment) will place additional financial burdens on small contractors. Most small operators will continue to refuel from peddle trucks. The proposed rule is tailored for the state's largest mining operators.

The regulated community affected by this rule change is the members of the Maine Aggregate Association. Their regulatory costs to allow for the storage of diesel fuel on sand and gravel aquifers will be reduced by a minimum of \$12,000 (estimated cost for a borehole test to determine aquifer yield)) for each proposed new facility. The cost of engineering and State Fire Marshal Office construction permit preparation will also be significantly reduced, but difficult to quantify.

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.